

REMARKS

The Non-Final Office Action issued February 23, 2007 has been reviewed and the comments of the U.S. Patent and Trademark Office have been considered. Claims 1-5, 15, 25-46, 48, and 49 are withdrawn from consideration pursuant to a restriction requirement made by the Office on October 12, 2006. Claim 47 remains pending. No claim has been amended.

Claim 47 stands rejected under 35 U.S.C. §112 as being indefinite. The Office Action alleges that recitation of the term “algorithm” renders claim 47 indefinite because the claim does not define this algorithm.

Applicants respectfully submit that the term “algorithm,” in the context of its usage of other terms in the claim, has been defined with sufficient clarity and precision such that one of ordinary skill in the art would be apprised of the scope of such claim. *See* MPEP § 2173.02 at p. 2100-194 (Rev. 5, Aug. 2006), which states that “[t]he Examiner’s focus during examination ...with the requirement of 35 U.S.C. 112, second paragraph is whether the claims meet the threshold of clarity and precision, not whether more suitable language or modes of expression are available.”

In claim 47, the term “algorithm” is used in conjunction with the requirement that the algorithm can be utilized to predict “further measurement values” One example of such algorithm is given in the originally filed application as equations (15) through (24) on pages 86-88 in Example 3. Another example of such algorithm is given in the originally filed application as equations (5)-(14) in Example 4, where elapsed time “t” is utilized for equations (5)-(14) instead of elapsed time since calibration “t_c” for equations (15)-(24) in Example 3. That is, the scope of the term “algorithm” recited in claim 47 is generic for any algorithms (including at least the two examples described in the specification) that can be utilized to predict “further measurement values.” Thus, one of ordinary skill would be apprised of the metes and bounds of the term “algorithm.” Accordingly, applicants respectfully request withdrawal of this rejection because claim 47 has been defined in the claim and therefore is not indefinite.


In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance and applicants earnestly solicit early examination on the merits and issuance of a Notice of Allowance. Should the Examiner believe that any additional information or amendment is necessary to place the application in condition for allowance, he is urged to contact the undersigned Attorney via telephone at 408-942-5721 or facsimile number 408-956-4404.

The Commissioner is hereby authorized to charge any required fees due in connection with this submission, including petition and extension of time fees, and to credit any overpayment to Deposit Account No. 10-0750 (Docket No. ANM5110USCNT2/KQT) (Johnson & Johnson).

Respectfully submitted,

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By: _____


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